

REMARKS/ARGUMENTS

The Applicant originally submitted Claims 1-21 in the application. In the present application the Applicant has amended Claims 1 and 8, canceled Claims 15-21 without prejudice or disclaimer, and added Claims 22-28. Support for the amendment can be found, for example, in paragraphs 9, 18, 21, 24, 31-33, and 35 and Figure 2B of the original specification. Accordingly, Claims 1-14 and 22-28 are currently pending in the application.

I. Rejection of Claims 1-21 under 35 U.S.C. §112

The Examiner has rejected Claims 1-21 under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential element(s), such as omission amounting a gap between the elements. More specifically, the Examiner asserts the Applicant did not specifically identify the particular version of USB compatible with the claimed performance indication system. In response, the Applicant has amended independent Claims 1 and 8 to include a particular USB version. Additionally, the rejection for Claims 15-21 is now moot as the Applicant has canceled Claims 15-21 without prejudice or disclaimer. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §112, second paragraph rejection of Claims 1-21 and allow issuance of the pending claims.

II. Rejection of Claims 1, 3-4, and 8-11 under 35 U.S.C. §102

The Examiner has rejected Claims 1, 3-4, and 8-11 under 35 U.S.C. §102(a) as being anticipated by "CATC USB Chief Bus and Protocol Analyzer User's Manual," hereinafter referred to as Chief. The Applicant respectfully disagrees.

Chief does not teach a performance indication system comprising a rate discrimination subsystem configured to provide a determination of a data transfer rate of a USB signal traversing through a single USB cable coupling a peripheral device to a host device as recited in amended independent Claims 1 and, analogously amended independent Claim 8. Instead, Chief teaches USB Chief Analyzer, consisting of a Bus and Protocol analyzer unit (Analyzer unit) and USB Chief software, which is a development and test tool for designers involved with USB development. The Analyzer is interposed between a USB 1.1 peripheral device and a host device, connecting to the host computer with one cable and to the USB 1.1 peripheral device with a second cable. (See pages 1 and 17.) As such, Chief does not teach a performance indication system determining the data transfer rate of a USB signal traversing through a single USB cable coupling a peripheral device to a host device. Therefore, Chief does not anticipate amended independent Claims 1 and 8 and Claims dependent thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102(a) rejection with respect to Claims 1, 3-4, and 8-11 and allow issuance thereof.

III. Rejection of Claim 2 under 35 U.S.C. §103

The Examiner has rejected Claim 2 under 35 U.S.C. §103(a) as being unpatentable over Chief as applied to Claim 1. The Applicant respectfully disagrees.

As argued above, Chief does not teach a performance indication system comprising a rate discrimination subsystem configured to provide a determination of a data transfer rate of a USB signal traversing through a single USB cable coupling a peripheral device to a host device as recited in amended independent Claim 1. Furthermore, Chief does not suggest the same. On the contrary, the Analyzer unit is connected between a host and peripheral device using two cables, one from the

Analyzer unit to the host device and one from the Analyzer unit to the peripheral device. Thus, if only a single cable were used, this would frustrate the operation of the Analyzer unit. Since two cables must be used with the Analyzer unit, Chief teaches away from a single USB cable and as such, does not provide a *prima facie* case of obviousness of amended independent Claim 1 and Claims that depend thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of dependent Claim 2 and allow issuance thereof.

IV. Rejection of Claims 5-7 and 12-14 under 35 U.S.C. §103

The Examiner has rejected Claims 5-7 and 12-14 under 35 U.S.C. §103(a) as being unpatentable over Chief in further view of: U.S. Patent No. 5,365,577 to Davis, *et al.*; U.S. Patent Application Publication No. 2003/0026183 by Kitagawa; U.S. Patent No. 6,308,215 to Kolbet, *et al.*; U.S. Patent No. 4,837,488 to Donahue; or a combination thereof. As discussed above, Chief does not provide a *prima facie* case of obviousness of amended independent Claim 1. Based on the above arguments pertaining to amended independent Claim 1, Chief also does not provide a *prima facie* case of obviousness of amended independent Claim 8. The Applicant does not find where the above references cure the noted deficiencies of Chief. Additionally, the above references have not been cited to cure the deficiencies of the independent claims but to teach the limitations of the above noted dependent claims. Thus, the cited combinations do not provide a *prima facie* case of obviousness of amended independent Claims 1 and 8 and Claims dependent thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 5-7 and 12-14 and allow issuance thereof.

V. Rejection of Claims 15-21 under 35 U.S.C. §103

The Examiner has rejected Claims 15-21 under 35 U.S.C. §103(a) as being unpatentable over Chief in further view of: U.S. Patent No. 6,705,527 to Kelly, *et al.*; Davis; Kitagawa; or Kolbet. The rejection, however, is now moot since Claims 15-21 have been canceled without prejudice or disclaimer. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection and allow issuance of the pending claims.

VI. Comment on Added Claims 22-28

The Applicant would like to point the Examiner to added Claims 22-28 directed at a USB terminator. While Chief teaches a non-intrusive, high impedance tap in the Analyzer unit, it does not teach or suggest a USB terminator configured to connect to and terminate a USB cable at a host or peripheral device as recited in independent Claim 22.

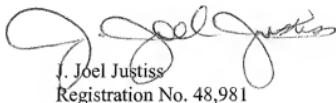
VII. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-14 and 22-28.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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